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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,975	06/11/2007	Jay S. Walker	03-048	9265
22927 7590 04/02/2009 WALKER DIGITAL MANAGEMENT, LLC 2 HIGH RIDGE PARK STAMFORD, CT 06905				
EXAMINER COLLINS, MICHAEL				
ART UNIT 3651		PAPER NUMBER		
MAIL DATE 04/02/2009		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/580,975

Applicant(s)

WALKER ET AL.

Examiner

MICHAEL K. COLLINS

Art Unit

3651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-15 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Shimoda et al. (USP 6,980,886).

Regarding claim 1, Shimoda et al. disclose a method, comprising:

- Receiving, from a customer via a vending machine (see Figure 1), a selection (4) of a product available for dispensing, thereby defining a first product;
- determining a set of entitlement options (27);
- outputting a presentation (15h) which indicates the set of entitlement options, in which the presentation is output employing a game theme;

- selecting (15g) at least one of the set of entitlement options, thereby defining at least one selected entitlement; and
- providing the at least one selected entitlement (16).

Regarding claim 2, Shimoda et al. disclose the method of claim 1. However, they do not disclose a method in which outputting a presentation employing a game theme comprises at least one of:

- displaying an animated wheel which spins and which indicates one of a plurality of benefits;
- displaying a plurality of objects which each selectively conceal an indication of a benefit; and
- displaying a plurality of spinning reels which each bear symbols representative of benefits.

Yet, such a modification requires only a change of a known material for displaying information. Therefore, such a modification would have been obvious to a person of ordinary skill because the selection of a known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

Regarding claim 3, Shimoda et al. disclose the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- receiving, from a customer via a vending machine, a selection of at least one of the set of entitlement options (27), thereby defining the at least one selected entitlement.

Regarding claim 4, Shimoda et al. disclose the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- selecting at least one of the set of entitlement options (27) based at least in part on an input received from a customer.

Regarding claim 5, Shimoda et al. disclose the method of claim 1, in which selecting at least one of the set of entitlement options comprises:

- selecting at least one of the set of entitlement options without regard to any input that is received from a customer after receiving, from the customer, the selection of the product available for dispensing.

Regarding claim 6, Shimoda et al. disclose 6. The method of claim 1, in which determining a set of entitlement options comprises:

- determining a set of entitlement options based on the first product (see column 7 lines 1-4).

Regarding claim 7, Shimoda et al. disclose the method of claim 1, in which determining a set of entitlement options comprises:

- determining a set of entitlement options based on profit inventory management data.

Regarding claim 8, Shimoda et al. disclose the method of claim 1, further comprising:

- vending the first product.

Regarding claim 9, Shimoda et al. disclose the method of claim 1, in which the at least one selected entitlement comprises at least one of:

- a particular product (16) to be provided in addition to the first product; and
- an inventory group from which at least one component product is selected (see Figure 10).

Regarding claim 10, Shimoda et al. disclose The method of claim 1, in which the at least one selected entitlement comprises at least one of:

- a discount on a product;
- a refund on a payment;
- a provision of at least one additional entitlement;
- a coupon; and
- an increase in a credit balance of the vending machine.

Regarding claim 11, Shimoda et al. disclose the method of claim 1, in which providing the at least one selected entitlement comprises providing a product for free (see Figure 6).

Regarding claim 12, Shimoda et al. disclose the method of claim 1, further comprising:

- updating inventory data to reflect dispensed products.

Regarding claim 13, Shimoda et al. disclose the method of claim 1, in which outputting a presentation which indicates the set of entitlement options comprises:

- determining whether to output a presentation; and
- outputting the presentation in response to a determination to output the presentation.

Regarding claim 14, Shimoda et al. disclose a method, comprising:

- receiving, from a customer via a vending machine (see Figure 1), a selection (4) of a first product that is available for dispensing by the vending machine;
- determining, based on profit inventory management data (S13), a set of products that are available for dispensing by the vending machine;
- outputting a game (S4) to the customer;
- receiving, via the game (S5), a selection of a product from the set of products, thereby defining a selected product;
- vending the selected product (S5-S7), and
- vending the first product (S2).

Regarding claim 15, Shimoda et al. disclose the method of claim 1, in which receiving, via the game, a selection of a product from the set of products comprises:

- randomly selecting (S4) a product from the set of products.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL K. COLLINS whose telephone number is (571)272-8970. The examiner can normally be reached on 8:30 am - 5:00 pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gene O. Crawford can be reached on (571) 272-6911. The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.K.C.
3/26/2009

/Gene Crawford/
Supervisory Patent Examiner, Art
Unit 3651